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7  
8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. *2011-763*

11 **PATRICIA FERNANDEZ**  
12 **421 West Broadway, Unit 2175**  
13 **Long Beach, CA 90802**  
**Registered Nurse License No. 589492**

**ACCUSATION**

14 Respondent.

15  
16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her  
19 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
20 Consumer Affairs.

21 2. On or about October 16, 2001, the Board of Registered Nursing issued Registered  
22 Nurse License Number 589492 to Patricia Fernandez ("Respondent"). The Registered Nurse  
23 License was in full force and effect at all times relevant to the charges brought herein and will  
24 expire on June 30, 2011, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing ("Board"),  
27 Department of Consumer Affairs, under the authority of the following laws. All section  
28 references are to the Business and Professions Code ("Code") unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

## STATUTORY PROVISIONS

5. Section 118, subdivision (b) of the Code provides, in pertinent part:

“(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.”

6. Section 2761 of the Code provides, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action...”

7. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

8. Section 2762 provides, in pertinent part,

“In addition to other acts constituting unprofessional conduct within the meaning of this chapter it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in

1 Division 10 (commencing with Section 11000) of the Health and Safety Code or  
2 any dangerous drug or dangerous device as defined in Section 4022.

3 (b) Use any controlled substance as defined in Division 10 (commencing  
4 with Section 11000) of the Health and Safety Code, or any dangerous drug or  
5 dangerous device as defined in Section 4022, or alcoholic beverages, to an extent  
6 or in a manner dangerous or injurious to himself or herself, any other person, or  
7 the public or to the extent that such use impairs his or her ability to conduct with  
8 safety to the public the practice authorized by his or her license..."

#### 9 DRUG DEFINITIONS

10 9. **Tramadol** - a dangerous drug pursuant to Business and Professions Code section  
11 4022. Tramadol is a centrally acting opioid analgesic, used in treating moderate to severe pain.

#### 12 COST RECOVERY

13 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
14 administrative law judge to direct a licensee found to have committed a violation or violations of  
15 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
16 enforcement of the case.

#### 17 FIRST CAUSE FOR DISCIPLINE

##### 18 (Disciplinary Action by the Florida Board of Nursing)

19 11. Respondent is subject to disciplinary action under Code section 2761, subdivision  
20 (a)(4), on the grounds of unprofessional conduct in that Respondent was disciplined by the  
21 Florida Board of Nursing ("Florida Board").

22 12. On or about April 14, 2009, pursuant to the Settlement Agreement, in the  
23 disciplinary action entitled *Department of Health v. Patricia Fernandez, R.N.*, the Florida Board  
24 disciplined Respondent by suspending Respondent's Registered Nurse License until such time  
25 that she undergoes an evaluation coordinated by the Intervention Project for Nurses ("IPN"), and  
26 complies with any and all terms and conditions imposed by IPN as a result of said evaluation.  
27 Respondent was further ordered to pay costs in the amount of \$2,754.56.

#### 28 SECOND CAUSE FOR DISCIPLINE

##### (Self-Administer Drugs)

13. Respondent is subject to disciplinary action under section 2762, subdivision (a) for  
self-administering a dangerous drug, to wit, Tramadol. The circumstances are as follows:

1 a. On or about April 9, 2009, Respondent enrolled in the Diversion Program with  
2 Maximus and agreed to abstain from alcohol and drugs.

3 b. On or about June 22, 2009 and October 6, 2010, Respondent submitted bodily fluids  
4 for drug screens that revealed Respondent had consumed Tramadol.

5 c. Respondent failed to submit to ten other scheduled drug screens.

6 d. On or about October 14, 2010, Respondent was terminated from the Maximus  
7 Diversion Program because the Diversion Evaluation Committee determined that Respondent  
8 posed a public safety risk.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Dangerous Use of Drugs)**

11 14. Respondent is subject to disciplinary action under Code section 2762, subdivision  
12 (b), in that Respondent used a dangerous drug, to wit Tramadol, to an extent or in a manner  
13 dangerous or injurious to herself, any other person, or the public, or to the extent that such use  
14 impairs her ability to conduct with safety to the public the practice authorized by his or her  
15 license. The conduct is more particularly described in paragraph 13, subparagraphs (a) through  
16 (d), inclusive, above, and herein incorporated by reference.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 **(Disciplinary Action by the Georgia Board of Nursing)**

19 15. Respondent is subject to disciplinary action under Code section 2761, subdivision  
20 (a)(4), on the grounds of unprofessional conduct in that Respondent was disciplined by the  
21 Georgia Board of Nursing ("Georgia Board").

22 16. On or about March 18, 2009, pursuant to the Acknowledgment of Voluntary  
23 Surrender, in the disciplinary action entitled *In the Matter of: Patricia Thompson Fernandez*,  
24 *License No. RN 166936*, the Georgia Board accepted the surrender of Respondent's license in lieu  
25 of further disciplinary action and treated such surrender as having the same effect as a revocation  
26 of the license.

27 17. The basis for the voluntary surrender is that on or about August 2007, after  
28 resigning from her position with Northside Hospital in Sandy Springs, Georgia, Respondent

1 returned to the hospital using her access badge and removed the following drugs from the  
2 automated Pyxis machine illegally and without authorization: Demerol, Midazolam, Fentanyl,  
3 Hydromorphone.

4 PRAYER

5 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
6 and that following the hearing, the Board of Registered Nursing issue a decision:

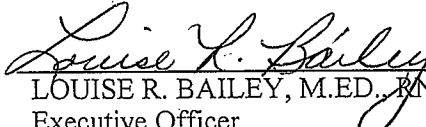
7 1. Revoking or suspending Registered Nurse License Number 589492, issued to Patricia  
8 Fernandez;

9 2. Ordering Patricia Fernandez to pay the Board of Registered Nursing the reasonable  
10 costs of the investigation and enforcement of this case, pursuant to Business and Professions

11 Code section 125.3;

12 3. Taking such other and further action as deemed necessary and proper.  
13  
14

15 DATED: March 11, 2011

  
LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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